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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,606	03/31/2004	Robert Joseph Angen	64367.000002	4352
21967 7590 10/06/2010 HUNTON & WILLIAMS LLP INTELLECTUAL PROPERTY DEPARTMENT 1900 K STREET, N.W. SUITE 1200 WASHINGTON, DC 20006-1109				
EXAMINER				
MAGUIRE, LINDSAY M				
ART UNIT		PAPER NUMBER		
3693				
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10/06/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/813,606

**Applicant(s)**

ANGEN ET AL.

**Examiner**

LINDSAY M. MAGUIRE

**Art Unit**

3693

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 August 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/22)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This Final Office Action is in response to the application filed on March 31, 2004, the amendments filed on March 15, 2006, the Request for Continued Examination filed on September 21, 2007, the amendments filed on March 5, 2008, the Appeal Brief filed November 10, 2008, the BPAI Decision - Examiner Affirmed mailed March 4, 2010, the Request for Continued Examination filed on May 4, 2010, and the amendments filed on August 16, 2010.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1 and 10 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, the recitation, "wherein the integrated shelving unit is formed prior to removably mounting to the one or more wall mounting assemblies" is not found in the specification in any form. Throughout the specification there are several mentions of the shelving being formed of various different materials, but no where is it a requirement that the shelving unit is formed prior to removably mounting to the one or more wall mounting assemblies.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 5-7, 10-12, and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 606,889 to Gregory in view of U.S. Patent No. Des. 305,190 to Winter et al.

In regard to claim 1, Gregory discloses a display system comprising a shelf assembly J,F,M comprising an upper side M and a lower side disposed oppositely from said upper side (see FIG. 1). Gregory further discloses a wall mounting assembly A,C,D and E comprising a slotting mechanism (holes in lugs C and D) for removably mounting a shelf mount assembly (pin H, thumbscrew I), wherein the shelf assembly may be removed without removing a wall mount attachment mechanism, e.g. screws passed through screw holes B, from the wall mounting assembly A (see FIG. 1); a shelf mount assembly (thumbscrew I) configured to be attached to the shelf assembly to form an integrated shelving unit for removably mounting to one or more wall mounting assemblies through the slotting mechanism (holes in lug C) wherein the shelf mount assembly is removable from the shelf assembly (e.g. thumbscrews I are removable) and wherein the integrated shelving unit is formed prior to removably mounting to the one or

more wall mounting assemblies (e.g. since the definition of the word formed is, "to give the shape or structure to something" according to Webster's II Dictionary, the unit would have to be formed prior to mounting otherwise it wouldn't be a shelf yet); and a mounting bracket or disk assembly N for rotably and removably mounting an object such that said object may be rotated on said disk via rotatable fastener O, and said object may be secured to and removed from said disk via mounting holes P (see FIGS. 1 and 2). The support as disclosed by Gregory further enables a person to view at least a majority of an object secured to said disk N from the second (bottom) side of said support.

Gregory discloses the display system substantially as claimed with the exception of including that the shelf assembly comprises a transparent material. Winter discloses a display shelf comprising a transparent shelf assembly and transparent wall mounting assemblies (see FIG. 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to construct the shelf structure as disclosed by Gregory of a transparent material as disclosed by Winter. The motivation for using a transparent material would be to focus visual attention on the object supported by said shelf. It is well known and obvious in the art of display shelves to construct the shelves of a transparent material so that attention is focused on the object displayed as opposed to the shelf itself. Such displays are shown in U.S. Patent Nos. D476,841 and D476,840 to Hoernig.

In regard to claims 3 and 12, Gregory does not disclose said shelf assembly disposed at an acute angle relative to the vertical mounting surface. Winter discloses said display shelf as being disposed at an acute angle relative to a wall (see FIG. 3).

It would have been further obvious to one of ordinary skill in the art at the time of the invention to dispose the shelf structure as disclosed by Gregory at an acute angle relative to its mounting surface. The motivation for orienting said shelf at an acute angle would be to bias the object displayed towards the mounting surface, so that if said object became detached from said shelf structure, it would fall backwardly against the wall as opposed to forwardly off the shelf.

In regard to claim 5, the system disclosed by Gregory in view of Winter et al. is capable of mounting a model car as a display object.

In regard to claim 6, Gregory in view of Winter et al. discloses mounting screw holes P capable of receiving a packaging attachment mechanism to secure an object to the bracket or disk N, said disk being removably and rotably attached to said shelf assembly via fastener O (see FIG. 1). It is noted that the packaging attachment mechanism according to the disclosure of the present application comprises "...bolts, screws, and the like..." (Page 5, Line 14). Because the Gregory reference provides screw holes adaptable to receive a packaging mechanism such as screws, the reference inherently meets the limitations of the claim.

In regard to claim 7, Gregory in view of Winter et al. further discloses the bracket or disk N as having one side connectable to an object, and an opposite side removably connected to the shelf assembly (see FIG. 1).

In regard to claims 10, 11, 14, 15, and 16, Gregory discloses a shelf structure comprising all of the limitations of claim 1, but does not disclose said assembly being transparent. Winter discloses a display shelf comprising a transparent shelf assembly and transparent wall mounting assemblies (see FIG. 1).

It would have been obvious to one of ordinary skill in the art at the time of the invention to construct the shelf structure as disclosed by Gregory of a transparent material as disclosed by Winter. The motivation for using a transparent material would be to focus visual attention on the object supported by said shelf. It is well known and obvious in the art of display shelves to construct the shelves of a transparent material so that attention is focused on the object displayed as opposed to the shelf itself. Such displays are shown in U.S. Patent Nos. D476,841 and D476,840 to Hoernig.

In regard to claim 14, the system disclosed by Gregory in view of Winter et al. is capable of mounting a model car as a display object.

Claims 8, 9, 17, and 18, are rejected under 35 U.S.C. 103(a) as being unpatentable over '889 to Gregory in view of '190 to Winter as applied to claims 1, 3, 5-7, 10-12, and 14-16 above, and further in view of U.S. Patent No. 5,165,538 to Peters.

Gregory in view of Winter discloses a shelf structure comprising all of the limitations of claims 7 and 16, but does not disclose said mounting disk or bracket to Gregory as being transparent, or enabling a viewer to see a portion of the display object through said bracket. Peters discloses a display device comprising an object supporting portion 30 comprised of transparent material (see Column 2, Line 28). It would have been obvious to one of ordinary skill in the art at the time of the invention to construct the support portion or disk as disclosed by Gregory of a transparent material as disclosed by Peters, so that an object on said disk is viewable from all angles. The motivation for providing a transparent support portion would be to focus visual attention on the object supported by said support disk. It is well known and obvious in the art of display assemblies to construct the support portions of a transparent material so that attention is focused on the object displayed as opposed to the support portion itself.

Claims 4 and 13, are rejected under 35 U.S.C. 103(a) as being unpatentable over '889 to Gregory in view of '190 to Winter as applied to claims 1, 3, 5-7, 10-12, and 14-16 above, and further in view of U.S. Patent No. 6,467,745 to Sickels.



Gregory in view of Winter discloses a shelf structure comprising all of the limitations of claims 1 and 10, but does not disclose said shelf as being disposed in a parallel relationship to a vertical surface. Sickels discloses a mounting bracket assembly for adjustably mounting an object to a support surface, such as a wall (see FIG. 1). Sickels further discloses the main support surface 24 disposed in a parallel relationship to said wall 14 (see FIG. 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the wall mount assembly as disclosed by Sickels to mount the shelf assembly as disclosed by Gregory, so that the shelf assembly is disposed in a parallel relationship to the wall. The motivation for including the wall mount assembly as disclosed by Sickels would be to allow the shelf as disclosed by Gregory to support long objects that would come into contact with the wall surface when the shelf is disposed perpendicularly to said wall. Orienting the shelf parallel to the wall is an obvious solution to the problem of supporting objects of any size or length.

### ***Response to Arguments***

Applicant's arguments filed August 16, 2010 have been fully considered but they are not persuasive.

Applicant's arguments that Gregory fails to teach, "the integrated shelving unit is formed prior to removably mounting to the one or more wall mounting assemblies" are acknowledged, however the examiner is of another opinion. Specifically, since the

definition of the word formed is, "to give the shape or structure to something" according to Webster's II Dictionary, the unit would have to be formed prior to mounting otherwise it wouldn't be a shelf yet. Therefore Gregory is considered to fully meet the aforementioned limitations of the claims.

Applicant's arguments regarding that the shelf mount assembly is removable from the shelf assembly, are acknowledged, however examiner is of another opinion. Specifically the shelf mount assembly (thumb screw I) is removable from the shelf assembly, and therefore is considered to fully meet the aforementioned limitations of the claims.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **LINDSAY M. MAGUIRE** whose telephone number is (571)272-6039. The examiner can normally be reached on M-F: 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Kramer James Kramer** can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3693

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lindsay M. Maguire  
9/30/10  
/Lindsay M Maguire/  
Examiner, Art Unit 3693